

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-20 (20) are currently pending in this application.

The Office Action of December 29, 2004 and the references cited therein have been considered. In response to the rejections stated in the Office Action, the Applicant provides the following comments. As demonstrated, however, each of the rejections is believed overcome, with the application being placed in condition for allowance. Accordingly reconsideration and allowance of this application is respectfully requested.

On page 2, paragraph 2 of the Office Action, the Examiner has rejected claims 1 and 5 under 35 U.S.C. § 102(b) as being anticipated by F.C. Johnston, et al (USPN: 3,004,097) Johnston discloses a busway system. In support for the Examiner's rejection of the cited claims, the Examiner utilizes the language of claim 1 of the present application and associates element numbers from the Johnston patent to support the Examiner's position.

In response, Applicant respectfully traverses the Examiner's characterization of the present application. It is submitted that Johnston does not teach or disclose the second and third bore as required in claim 1 of the present application nor does Johnston provide a fastener that extends through each of the splice plates and insulator assemblies as disclosed and claimed in the present application. In Johnston, as clearly shown in Fig. 4, the fastener 54 does not pass through the elements listed by the Examiner. Further, the coupling of the bus sections in the present application function differently than disclosed in Johnston. In the present application, a single fastener is disposed within the first, second and third bores and configured to force the conductor/insulator assembly between the first and second splice plate into contact with the busway sections. In contrast, Johnston discloses and teaches the tightening of the pressure bolt 54 which moves the shoulder 54 inwardly compressing the resilient member 56 against the sides of the insulator members 36b as more fully described in col. 6, lines 53-72 of Johnston. Accordingly, claim 1 of the present application is not anticipated by Johnston since Johnston does not disclose a single fastener passing through the

first and second splice plates and insulator assemblies as disclosed and claimed in the present application. Likewise, since claim 5 depends from independent claim 1, claim 5 also is not anticipated by Johnston. Therefore, Applicant respectfully requests that the Examiner withdraw his rejection of claims 1 and 5 under 35 U.S.C. §102(b).

On page 3, paragraph 4 of the Office Action, the Examiner has rejected claims 1-6, 8-13, 15-18 and 20 under 35 U.S.C. §103(a) as being unpatentable over Faulkner, et al (USPN: 5,760,339) in view of F.C. Johnston, et al (USPN: 3,004,097). Faulkner discloses a busway joint and the Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the connection of the elbow stack of Faulkner by making an angle connection as taught by Johnston to connect conveniently the busway sections in any direction. In response, Applicant submits that one ordinarily skilled in the art would not combine that which is taught by Faulkner and Johnston. Specifically, Applicant reiterates his comments with respect to Johnston above particularly with respect to the functioning of the Johnston bolt 54. Further, Applicant submits that the inventor of the present application is also one of the named inventors of the Faulkner, et al patent. Applicant submits that if the combination of Faulkner, et al and Johnston as suggested by the Examiner was not obvious to Faulkner in March of 1993, it is not obvious at the time the present application was filed.

The Applicant submits that the Examiner is relying on hindsight to make the above obviousness rejection of the cited claims under 35 U.S.C. §103(a). Applicant believes that the Examiner is basing his rejection on the mere identification in the prior art of individual components of the claimed limitations in the present application. The Examiner has not made particular findings as to the reason a skilled artisan, with no knowledge of the claimed invention would have selected the components for a combination in the manner claimed in the present application. As pointed out, the inventor of the present application is one of the named inventors of the cited prior art. If it wasn't obvious more than ten years ago, the Examiner has not suggested why it would be obvious now. Case law makes clear that the best defense against the subtle but powerful attraction of a hindsight based obviousness analysis is rigorous application of the requirement for a showing of the teaching and motivation to the prior art references. Further, the cases state that combining prior art

references without evidence of such suggestion, teaching or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability, the essence of hindsight. Broad conclusory statements regarding the teaching of multiple references standing alone is not evidence.

As stated above, the Applicant has pointed out the differences in structure and functionality of the various elements cited by the Examiner in the prior art patents combined by the Examiner to make his obviousness rejections. The Applicant submits that, as stated above, the claims are patentably distinct from the prior art cited by the Examiner and that one ordinarily skilled in the art would not be compelled to combine the Johnston patent with the Faulkner patent to obtain that which is disclosed and claimed in the present application since it was not taught or suggested by Faulkner in his previous patent.

On pages 4-5, through paragraph 6 of the Office Action, the Examiner's comments with respect to the various dependent claims rely on the combination of Faulkner and Johnston. In response, Applicant reiterates his comments with respect to Faulkner and Johnston individually or as combined as suggested by the Examiner. Applicant submits that independent claims 1, 9 and 16 are not obvious as suggested by the Examiner as described above. Accordingly, claims 2-8 which depend from independent claim 1, dependent claims 10-15 which depend from independent claim 9 and dependent claims 17-20 which depend from independent claim 16 are therefore also not obviousness under the combination suggested by the Examiner. Therefore, Applicant respectfully requests that the Examiner withdraw his rejection of the independent claims cited above under 35 U.S.C. §103(a).

The prior art cited by the Examiner but not relied upon has been reviewed.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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